

application to prime contracts for the acquisition of commercial items.

(b) For subcontracts for the acquisition of commercial items or commercial components, the clauses at 52.212–5, Contract Terms and Conditions Required to Implement Statutes or Executive Orders—Commercial Items, and 52.244–6, Subcontracts for Commercial Items and Commercial Components, reflect the applicability of the laws listed in 12.504 by identifying the only provisions and clauses that are required to be included in a subcontract at any tier for the acquisition of commercial items or commercial components.

**12.503 Applicability of certain laws to Executive agency contracts for the acquisition of commercial items.**

(a) The following laws are not applicable to Executive agency contracts for the acquisition of commercial items:

(1) 41 U.S.C. 43, Walsh-Healey Act (see subpart 22.6).

(2) 41 U.S.C. 254(a) and 10 U.S.C. 2306(b), Contingent Fees (see 3.404).

(3) 41 U.S.C. 416(a)(6), Minimum Response Time for Offers under Office of Federal Procurement Policy Act (see 5.203).

(4) 41 U.S.C. 701, *et seq.*, Drug-Free Workplace Act of 1988 (see 23.501).

(5) 31 U.S.C. 1354(a), Limitation on use of appropriated funds for contracts with entities not meeting veterans employment reporting requirements (see 22.1302).

(6) 31 U.S.C. 6101 note, Pub. L. 109–282, Federal Funding Accountability and Transparency Act of 2006, requirement to report subcontract data.

(7) Section 806(a)(3) of Pub. L. 102–190, as amended by Sections 2091 and 8105 of Pub. L. 103–355, Payment Protections for Subcontractors and Suppliers (see 28.106–6).

(b) Certain requirements of the following laws are not applicable to executive agency contracts for the acquisition of commercial items:

(1) 40 U.S.C. 3701 *et seq.*, Requirement for a certificate and clause under the Contract Work Hours and Safety Standards Act (see 22.305).

(2) 41 U.S.C. 57(a) and (b), and 58, Requirement for a clause and certain other requirements related to the Anti-Kickback Act of 1986 (see 3.502).

(3) 49 U.S.C. 40118, Requirement for a clause under the Fly American provisions (see 47.405).

(c) The applicability of the following laws have been modified in regards to Executive agency contracts for the acquisition of commercial items:

(1) 41 U.S.C. 253g and 10 U.S.C. 2402, Prohibition on Limiting Subcontractor Direct Sales to the United States (see 3.503).

(2) 41 U.S.C. 254(d) and 10 U.S.C. 2306a, Truth in Negotiations Act (see 15.403).

(3) 41 U.S.C. 422, Cost Accounting Standards (see 48 CFR chapter 99) (see 12.214).

[60 FR 48241, Sept. 18, 1995, as amended at 61 FR 67418, Dec. 20, 1996; 62 FR 232, 236, Jan. 2, 1997; 62 FR 10710, Mar. 10, 1997; 62 FR 51270, Sept. 30, 1997; 64 FR 10532, Mar. 4, 1999; 64 FR 72416, Dec. 27, 1999; 66 FR 53488, Oct. 22, 2001; 70 FR 57454, Sept. 30, 2005; 71 FR 20302, Apr. 19, 2006; 72 FR 46341, Aug. 17, 2007; 72 FR 51310, Sept. 6, 2007; 73 FR 54007, Sept. 17, 2008]

**12.504 Applicability of certain laws to subcontracts for the acquisition of commercial items.**

(a) The following laws are not applicable to subcontracts at any tier for the acquisition of commercial items or commercial components at any tier:

(1) 10 U.S.C. 2631, Transportation of Supplies by Sea (except for the types of subcontracts listed at 47.504(d)).

(2) 15 U.S.C. 644(d), Requirements relative to labor surplus areas under the Small Business Act (see subpart 19.2).

(3) [Reserved]

(4) 41 U.S.C. 43, Walsh-Healey Act (see subpart 22.6).

(5) 41 U.S.C. 253d, Validation of Proprietary Data Restrictions (see subpart 27.4).

(6) 41 U.S.C. 254(a) and 10 U.S.C. 2306(b), Contingent Fees (see subpart 3.4).

(7) 41 U.S.C. 254d(c) and 10 U.S.C. 2313(c), Examination of Records of Contractor, when a subcontractor is not required to provide cost or pricing data (15.209(b)).

(8) 41 U.S.C. 416(a)(6), Minimum Response Time for Offers under Office of Federal Procurement Policy Act (see subpart 5.2).

(9) 41 U.S.C. 418a, Rights in Technical Data (see subpart 27.4).